

INFORMATION BULLETIN #99

INCOME TAX

MAY 2008

(Replaces Information Bulletin #99 Dated July 2007)

DISCLAIMER: Information Bulletins are intended to provide non-technical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules and court decisions. Any information that is inconsistent with the law, regulations and court decisions is not binding on either the Department or the taxpayer. Therefore, information provided in this bulletin should serve only as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein.

SUBJECT: Coal Gasification Technology Investment Tax Credit

REFERENCE: IC 6-3.1-29

EFFECTIVE DATE: January 1, 2008, (Retroactive)

INTRODUCTION

Effective January 1, 2006 the coal gasification technology investment tax credit was enacted to encourage the use of Indiana coal to produce synthesis gas as a fuel to generate electricity and for production of synthesis gas that can be used as a substitute for natural gas.

DEFINITIONS

- A. "Fluidized bed combustion technology" means a technology that involves the combustion of fuel in connection with a bed of inert material, such as limestone or dolomite, which is held in a fluid like state by the means of air or other gasses being passed through the materials.
- B. "Integrated coal gasification powerplant" means a facility that is located in Indiana that converts coal into a synthesis gas that can be used as a fuel to

- generate energy or as a substitute for natural gas, uses the synthesis gas as a fuel to generate electrical energy or produces synthesis gas as a substitute for natural gas, and the facility is dedicated primarily to the production of electricity or gas for use by energy utilities serving Indiana retail electric or gas utility consumers.
- C. “Pass through entity” means a partnership, limited liability company, limited liability partnership, or corporation that is an electric cooperative or an S corporation.
 - D. “Qualified investment” means a taxpayer’s expenditures for all real and tangible personal property incorporated in and used as part of an integrated coal gasification powerplant or fluidized bed combustion technology and transmission equipment located at the site that is used specifically to serve the powerplant or the fluidized bed combustion technology.
 - E. “State tax liability” means the adjusted gross income tax, the financial institutions tax, the insurance premium tax, or the utility receipts tax.
 - F. “Taxpayer” means a person, a corporation, a partnership, or other entity that makes a qualified investment.

APPLICATION FOR THE CREDIT

A person who proposes to place a new coal gasification powerplant into service or a fluidized bed combustion technology may apply to the Indiana Economic Development Corporation (IEDC) before the taxpayer makes the qualified investment to enter into an agreement for the tax credit.

An agreement entered into by the IEDC with the taxpayer shall include a detailed description of the project: the first year in which the credit will be claimed; the maximum credit allowed for each taxable year; and a requirement that the taxpayer must maintain operations at the project location for at least 10 years, the taxpayer must pay an average wage that is at least 125 percent of the average county wage, the taxpayer will not decrease its total payroll during the term of the tax credit, the taxpayer will use 100 percent of its coal from Indiana if the unit is dedicated primarily to serving Indiana retail electric customers unless the taxpayer wishes to assign the tax credit and the taxpayer certifies to the IEDC that partial use of other coal is necessary to result in lower rates for Indiana retail utility customers. Seventy-five percent of the coal must be Indiana coal if the fluidized bed combustion technology is not primarily dedicated to serving Indiana retail electric customers. The agreement shall also include a requirement that the taxpayer receive from the utility regulatory commission a determination that public convenience and necessity require construction of the powerplant.

ENTITLEMENT TO THE CREDIT

A taxpayer who is awarded the credit by the IEDC is entitled to a credit against the taxpayer’s state tax liability. The amount of the credit for a coal gasification powerplant is 10 percent of the taxpayer’s qualified investment for the first \$500,000,000 invested, and 5 percent of the amount of the qualified investment that exceeds \$500,000,000. The credit awarded must be taken in 10 annual installments.

The credit for a fluidized bed combustion technology is 7 percent of the taxpayer's qualified investment for the first \$500,000,000 invested, and 3 percent of the amount of the qualified investment that exceeds \$500,000,000.

The annual amount of the credit is equal to the lesser of the total amount of the credit awarded divided by 10, or the greater of the taxpayer's liability for the utility receipts tax or 25 percent of the taxpayer's total state tax liability, multiplied by the percentage of Indiana coal used by the taxpayer in the powerplant for the taxable year of the installment.

ASSIGNMENT OF THE CREDIT

A taxpayer may assign part or all of the credit to which a taxpayer is entitled to one or more utilities that have entered into a contract that is approved by the utility regulatory commission, provides for the purchase of electricity or substitute natural gas by the utility from the taxpayer, and expressly allows the assignment of tax credits.

CLAIMING THE CREDIT

A taxpayer must claim the credit on the taxpayer's annual tax return and include a copy of the Utility Regulatory Commission's determination and a copy of the certificate of compliance issued by the IEDC.

A handwritten signature in black ink that reads "John Eckart". The signature is written in a cursive style with a large, looping initial "J".

John Eckart
Commissioner